

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

**L.R. NO.:** 3788-07  
**BILL NO.:** SCS for HS for HB 1615  
**SUBJECT:** Elderly; Family Services Division; Health Care; Health Care Professionals;  
Medicaid; Nursing and Boarding Homes; Mental Health Department; Public  
Assistance; Social Services Department  
**TYPE:** Original  
**DATE:** April 28, 2000

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**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2001</b>	<b>FY 2002</b>	<b>FY 2003</b>
General Revenue	(\$13,943,436)	(\$22,350,080)	(\$23,865,135)
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>(\$13,943,436)</b>	<b>(\$22,350,080)</b>	<b>(\$23,865,135)</b>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2001</b>	<b>FY 2002</b>	<b>FY 2003</b>
Federal	\$0	\$0	\$0
<b>Total Estimated Net Effect on <u>All</u> Federal Funds*</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**\*Revenues and expenditures of approximately \$33 million annually net to \$0.**

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2001</b>	<b>FY 2002</b>	<b>FY 2003</b>
<b>Local Government</b>	<b>Exceeds (\$100,000)</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 17 pages.

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**FISCAL ANALYSIS**

**ASSUMPTION**

Officials from the **Office of Attorney General, Department of Mental Health and Department of Public Safety - Missouri Highway Patrol** assume this proposal will not fiscally affect their agencies.

Officials from the **Office of State Courts Administrator (OSCA)** stated the various changes in the laws relating to elderly abuse proposed by this legislation should not have an appreciable impact on the workload of the courts.

Officials from the **Department of Social Services - Division of Legal Services (DLS)** anticipate the new provisions will result in increased litigation and will also require legal assistance in drafting and implementing rules and regulations and internal policies. One additional Attorney (\$34,992) will be needed. The DLS split the costs between state and federal funds at a rate of 60% state and 40% federal.

The DLS also stated that Section 3281 of the State Operations Manual, issued by the US Department of Health and Human Services - Health Care Financing Administration (HCFA), requires that the state survey and certification agency investigate complaints involving an immediate and serious threat to patient health and safety within two working days of receipt. Therefore, it appears this legislation could be, according to the DLS, federally mandated.

Officials from the **Department of Social Services - Division of Family Services (DFS)** state that they assume that all of DFS's Medicaid programs would be impacted by language in sections 208.010 and 208.151, RSMo. However, for the purpose of this fiscal note DFS assumes Temporary Assistance is excluded as stated in 208.010.2 (4), RSMo. DFS assumes that fifty percent of the current Qualified Medicare Beneficiary (QMB) and Specified Low-income Medicare Beneficiary (SLMB) only program participants would be eligible for Medicaid with the increased resource limits. DFS assumes 11,938 QMB only cases and 6,829 SLMB only cases (data obtained from the Division of Medical Services for January, 2000). DFS assumes 15 Supplemental Aid to the Blind (SAB) applicants were denied Medicaid benefits on the basis of a \$2,000 resources limit (data obtained from Research and Evaluation). Those individuals rejected in the past on excessive resources usually qualify for the Blind Pension program since it has a \$20,000 resource maximum. Therefore, DFS would not have any additional cost for this group. In addition, DFS assumes that some General Relief applicants were denied Medicaid benefits on the basis of the \$1,000 resource limit. However, the number impacted would be negligible. DFS assumes no additional cost for this group.

ASSUMPTION (continued)

DFS assumes that sixty-five percent of the total population would qualify for the single resource maximum and thirty-five percent of the total population would qualify for the couple resource maximum as reported by the Health Care Financing Administration (Medicare Current Beneficiary Survey Data Tables, 1997, Table 1.2)

DFS assumes sixty-five percent of the current QMB and SLMB program participants are living alone. DFS assumes that fifty percent of this population would be eligible for Medicaid based on the increased resource limits. For the SLMB population the income limit is \$385 greater than the SSI maximum, therefore, this population would be spenddown. DFS assumes that the average adult Medicaid caseload to be 480 cases. Therefore, DFS projects five additional caseworkers would be needed to service the new eligibles. DFS would need one Clerk Typist II to support the additional caseworkers.

Officials from the **Department of Social Services - Division of Data Processing (DDP)** stated the proposal would increase the number of Medicaid recipients to a level undefined at this time. Should this number increase substantially, additional disk storage and CPU expenses would be incurred by the DDP. **Oversight** assumes that the DDP could absorb any additional storage costs and CPU expenses with existing resources.

Officials from the **Department of Social Services - Division of Medical Services (DMS)** stated the proposal would have the following fiscal impact:

**Expansion of the Asset Limit to \$2,500 Single and \$5,000 for Married Couple**

DMS projects that 10,482 persons would become Medicaid eligible if the resource limit is increased to \$2,500/\$5,000. The estimate was done by the Division of Family Service. DMS estimates the annual program cost to be \$12,333,977 in FY2001, \$16,964,451 in FY2002, and \$18,549,996 in FY2003.

**Expansion of Eligibility for Aged, Blind, and Disabled**

DMS states that as of 12-01-99 there were 1,509 QMB only and 9,900 spenddown eligibles. DMS estimates the annual program cost to be \$10,451,958 in FY2001, \$18,309,576 in FY2002, and \$20,045,760 in FY2003.

ASSUMPTION (continued)

**Payment to Nursing Facility for a Newly Admitted Medicaid Resident**

DMS states the proposal would require DMS to reimburse a licensed nursing home operator for a newly admitted Medicaid resident in a licensed long-term care facility within 45 days of the resident's date of admission. Currently, DMS is required to make timely payments by federal law (42 CFR 447.45) on 90% of all "clean claims" within 30 days of the date of receipt. DMS assumes there would be a unknown fiscal impact but less than \$100,000 from this proposal to DMS.

**Restructure of the Adult Day Care Program**

DMS states the restructuring of the adult day care program to allow programs that provide a basic level of care without the rehabilitative services and the requirement that DMS provide additional reimbursement to providers for the transportation of clients to and from their homes for adult day care would have a fiscal impact on DMS. DMS estimates the annual program cost to be \$4,768,739 in FY2001, \$6,923,109 in FY2002, and \$7,356,763 in FY2003.

**Add Chiropractic Services to Services Covered by the Medicaid Program**

DMS states the proposal would require DMS to reimburse for chiropractor services currently not covered by Medicaid. DMS estimates the annual program cost to be \$5,310,164 in FY2001, \$10,620,328 in FY2002, and \$10,620,328 in FY2003.

Officials from the **Department of Social Services - Division of Aging (DA)** stated this proposal would impact their division as follows:

*Initiate Immediate Investigations of Imminent Harm*

The added requirement at 187.020.5 RSMo states "For reports involving imminent harm, the division shall initiate an immediate investigation." For purposes of this fiscal note, we assumed that immediate investigation means upon receipt of the report in the applicable regional office. Current state law allows the division up to 24 hours to initiate an investigation of abuse or neglect. The DA assumed the intent of the proposal is to reduce the time from receipt to initiation. During the first half of FY2000, Institutional Services received 559 class A priority code complaints. DA would anticipate that between 1,100 and 1,200 class A priority code complaints will be received in FY2000. (The average complaint investigation takes about 10 hours to complete and the average FTE works approximately 1,840 hours annually.) To enable Institutional Services to initiate immediate investigations of these reports, an additional Facility

ASSUMPTION (continued)

Advisory Nurse II position (\$42,288) will be needed in each of the seven (7) regional offices.

*Referrals to the Prosecutor and Law Enforcement*

The Prosecutors office and law enforcement agencies will determine the fiscal impact associated with additional referrals resulting from the language requiring the division to refer all cases of "suspected" elder abuse. There were 13,082 investigations completed by Home and Community Services in FY 99; 55% (7,195 cases) had investigative findings of reason to believe and 21.6% (2,826 cases) had findings in which the allegations were suspected to have occurred. There were 6,410 investigations completed by Institutional Services in FY99; 26.5% (1,699) had investigative findings of valid and 20.9% (1,340) had findings in which the allegations were unable to be verified. Currently, DA already contacts or involves local law enforcement agencies when investigating allegations where there is suspected elder abuse.

*Training*

The division assumes the intent of the proposal is that DA staff and law enforcement officials statewide will require training on the proper handling of cases involving elder abuse.

- There will be a window of time in which the state will have to bring 800+ DA staff and the approximately 29,000 law enforcement officials (representing over 1,200 law enforcement agencies) into compliance with the training requirements of the legislation.
- The law enforcement agencies will absorb the cost of training law enforcement officials. Once existing law enforcement officers receive the training, the curriculum will be incorporated into the required training for state certification in Missouri. There are 18 law enforcement training academies located throughout the state which offer the required 470 hours of training for all law enforcement officials to become certified.

The division will need one Aging Program Administrator position (\$44,136) to oversee the administrative responsibilities outlined in the bill. The administrator will work with the Highway Patrol, Sheriff's Association, Law Enforcement Training Academies, and other such agencies and associations to fulfill the requirements of joint training, developing accurate curriculum including the mandated checklist to ensure thorough investigations of elder abuse cases. Once the curriculum has been developed, the administrator will act as the division liaison for law enforcement to the over 1,200 law enforcement agencies to ensure that elder abuse training is accurate and revisions are made as necessary in accordance with state laws.

ASSUMPTION (continued)

The administrator will conduct "train the trainer" sessions for new law enforcement and division trainers, as necessary and be available to speak at association meetings and law enforcement conferences across the state. The administrator will conduct in-house training to establish a list of division personnel in various regions who can present on elder abuse investigations and the use of the checklist. Once the curriculum has been developed, it will be used for training staff of the law enforcement academies and within the division to train existing staff on the proper handling of cases involving elder abuse including the use of checklist. The division will add to its basic and advanced orientation this same curriculum to enhance the sections involving elder abuse that are already included in the current training program, inviting law enforcement or highway patrol personnel to present/speak at the orientation programs to meet the requirements of cross-training.

The division will conduct training for 800+ employees within the division in six to eight sessions across the state (depending on attendance by law enforcement personnel). The division estimates that 16 hours of training across three days will be sufficient, requiring two overnights for approximately 40% of the staff. All staff will require meal allowance and some travel reimbursement. Anticipating maximum carpool and state cars usage, mileage is based on an average of 75 miles per car. The division estimates the cost of training as follows (no cost for "trainers" included):

Total DA Staff/Personnel to be trained	800
Approximate number requiring two overnight accommodations (40%)	320
Hotel Accommodations: \$60.00 per overnight two nights	\$38,400
Meal Allowance: \$23.00 per day; two days (800x\$23x2)	\$36,800
Meal Allowance: \$17.00 last day (plus 15%) (\$19.55x800)	\$15,640
Approximate Mileage (1 car per 3 employees = 800/3 = 267 cars)	
75 average miles round-trip per car (267x75x\$.28/mile)	<u>\$ 5,607</u>
Total Estimated Cost of Training DA Staff	<u>\$96,447</u>

**Oversight** assumes that the training would be held at sites around the state. Oversight assumes total costs of \$51,027.

*Background Screening and EDL Checks*

DOA states this provision would require the division to provide notice to all facilities that are currently employing persons that have been convicted of, pled guilty to or nolo contendere in this state or in any other state or have been found guilty of a crime which, if committed in Missouri would be a class A or B felony violation. DOA assumes that the long-term care facilities in the

ASSUMPTION (continued)

state have approximately 41,000 employees at any given time and have an estimated turnover rate of 60%, criminal background checks cost \$5 each. Therefore, DOA assumes this portion of the proposal would require an annual check of each individual employed by a facility by DOA. DOA estimates the cost would be \$205,000 annually (41,000 x \$5). Additionally, 8% of the individuals may require a fingerprint check to ensure the individual is accurately identified at a cost of \$45,920 each year (8% x 41,000 x \$14). DOA also estimates 2% of the individuals may require an enhanced records review to ensure the individual is accurately identified at an average cost of \$50 per individual or \$41,000 each year (2% x 41,000 x \$50). As a result, DOA would need two Data Entry Operator II positions for data base entry, tracking, handling the paperwork, mailing, and notification to facilities associated with the criminal background checking requirements. Further, DOA would need to modify the existing mainframe data base to collect information related to individuals with criminal backgrounds. From past experience with data base systems design, DOA estimates one-time cost of this computer system upgrade of \$35,000 and ongoing maintenance of \$1,500 annually. This portion of the proposal provides for emergency enactment of this provision upon its passage and approval; therefore, a full year's costs are shown in the first year.

*Telephone Check-In*

Section 187.100 requires the division to establish a telephone check-in pilot project in one area of the state for purpose of documenting in-home employees times and services. The division in collaboration with Division of Medical Services is currently conducting a pilot program called "Telephony". Approximately 23 provider agencies are voluntarily participating in an area covering approximately 3/4 of the state. Telephony allows in-home employees to clock in and out of the client's home recording actual time and services provided.

Approximately 1/4 of the state is prevented from participation as these areas do not have caller identification available. According to the projections of the telephone companies, it is anticipated that the additional areas will not have caller identification systems until the year 2003.

Participating provider agencies buy and develop their own systems. The systems range in price from \$7,000 to \$75,000 depending on the type of software and hardware that must be purchased by the agency. Upon evaluation of the pilot program, the divisions will determine the effectiveness of implementing this program statewide, however, to mandate the use of the system by all agencies would be extremely costly to small businesses. The current pilot appears to meet the mandate of the proposed legislation and would therefore have no fiscal impact on the division.

ASSUMPTION (continued)

*Section 208.225 Expansion of Medicaid Eligibility*

The DA stated the fiscal impact unknown or indeterminate for this section of the proposal. According to the Division of Medical Services, it is not possible to determine the target population under the unknown parameters of an “increased income and asset limit”.

Currently there are a total of 76,308 persons age 65 and over on Medicaid. As of June 30, 1999, the division had authorized in-home services to just over 24,500 Medicaid in-home service recipients or 32% (24,567 / 76,308) of the Medicaid clients age 65 or over. Once the target population is determined, the division would require additional staff at a ratio of 1:125 for 32% of the new potential eligible participants.

*Section 660.252 Medicaid Participation Agreements and Mandated Training on Elder Abuse*

Current training requirements are mandated for all contracted in-home services provider agencies in accordance with 13 CSR 15-7.021 (19). Included in required training topics is recognizing and reporting abuse, neglect, and/or exploitation of elderly or disabled clients. Additionally, reporting elder abuse is required by the contract for in-home services as well as state law.

Officials from the **Department of Corrections (DOC)** stated that the costs to the DOC for this proposal would be \$0 to minimal. The costs can be absorbed with existing resources.

Officials from the **Office of Prosecution Services** deferred to the Cole County Prosecuting Attorney’s Office to provide a response for this proposal. Officials from the **Cole County Prosecuting Attorney’s Office (CCPAO)** stated that this proposal is a complete re-write of the existing laws in this subject area. The proposal affects the stealing, assault, and abuse statutes. This will require the local prosecuting attorney offices to re-write forms and instructions related to elder abuse. This will also require an update to the computer network being installed in the prosecutors offices statewide. Although the CCPAO could not give a precise estimate of these costs, the costs are expected to exceed \$100,000 in the first year alone.

**Oversight** will present a cost of over \$100,000 for FY 01 for the various prosecuting attorneys statewide which will be reflected in local government funds for fiscal note purposes.

Officials from the **Office of State Public Defender (SPD)** stated that for the purpose of this proposal, the SPD has assumed that existing staff could provide representation for those 10 to 25 cases arising where indigent persons were charged with failure to report elder abuse, false reporting of elder abuse or neglect in a nursing home. However, passage of more than one



ASSUMPTION (continued)

similar proposal would require the SPD to request increased appropriations to cover cumulative costs of representing the indigent accused in the additional cases.

Officials from the **Office of Secretary of State (SOS)** stated this proposal makes major changes in the statutes dealing with the care and abuse of the elderly. Based on experience with other divisions, the rules, regulations and forms issued by the Division of Aging could require as many as approximately 64 pages in the *Code of State Regulations*.

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

**Sections 197.400, 197.405, 197.410, 197.415, 197.420, 197.422, 197.425, 197.430, 197.435, 197.440, 197.445, 197.450, 197.455, 197.460, 197.474, and 197.477**

**Department of Health (DOH)** officials state the proposal would require the department to monitor, license and investigate complaints of all providers of in-home care within the state. Currently only home health agencies are licensed by the DOH. DOH states there are approximately 471 providers of in-home care that are currently unlicensed and without oversight as they do not meet the above definition of a home health agency. DOH further states this number is an approximation arrived at by counting the number of in-home providers advertising in the yellow pages of 169 phone books covering all areas of the state. DOH states there was no other source from which to gain an accurate count of such providers as they are not required to report to anyone.

DOH states there are currently 216 licensed home health agencies in the state. The proposal would require the department to additionally monitor/license/survey approximately 471 in-home care providers. DOH assumes that to add this number of providers would require the additional staff of two Clerk Typists II (based upon current workload) and eight Health Facility Nursing Consultants (annual average survey caseload 40 - 50 per surveyor) to complete these processes.

DOH states that currently they collect a \$600 license fee from the 216 home health agencies licensed in the state. This proposal would allow DOH to collect a license fee from all providers of home care that meet the requirements of this proposal and the regulations developed to implement it. DOH assumed the annual fees of \$600 for home health companies, \$300 for professional home care companies, and \$100 for para-professional home care companies. DOH

ASSUMPTION (continued)

estimates of the 471 currently unlicensed in-home care providers approximately 298 would be charged \$600, approximately 85 would be charged \$300, and approximately 88 would be charged \$100, for an increase in state revenue of \$213,100 to the General Revenue Fund.

**Oversight** assumes that four Health Facility Nursing Consultants and one Clerk Typist II would be sufficient staff to license and inspect the proposed licensees.

<u>FISCAL IMPACT - State Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
<b>GENERAL REVENUE FUND</b>			
<u>Income - Department of Health</u>			
License fees	\$213,100	\$213,100	\$213,100
<u>Costs - Department of Social Services - Division of Aging</u>			
Personal services (13.68 FTE)	(\$242,286)	(\$488,813)	(\$501,033)
Fringe benefits	(\$74,503)	(\$150,310)	(\$154,068)
Expense and equipment	<u>(\$498,081)</u>	<u>(\$768,190)</u>	<u>(\$788,842)</u>
Total Costs - Division of Aging	<u>(\$814,870)</u>	<u>(\$1,407,313)</u>	<u>(\$1,443,943)</u>
<u>Costs - Department of Social Services - Division of Medical Services</u>			
Expansion of asset limit	(\$4,749,265)	(\$6,553,761)	(\$7,171,648)
Expansion of eligibility	(\$4,073,128)	(\$7,135,242)	(\$7,811,833)
Chiropractor services	(\$2,069,371)	(\$4,113,742)	(\$4,138,742)
Restructure of adult day care	(\$1,858,377)	(\$2,697,935)	(\$2,866,930)
Program costs	<u>(\$95,590)</u>	<u>(\$105,693)</u>	<u>\$105,940</u>
Total <u>Costs</u> - DMS	<u>(\$12,803,731)</u>	<u>(\$20,583,373)</u>	<u>(\$22,047,093)</u>
<u>Costs - Department of Social Services - Division of Family Services</u>			
Increased Personnel and Expense and Equipment Cost from Increasing Asset and Income Limits	(\$193,576)	(\$185,916)	(\$190,674)

<u>FISCAL IMPACT - State Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
<u>Costs - Department of Social Services - Division of Legal Services</u>			
Personal Service (2.7 FTE)	(\$69,916)	(\$86,031)	(\$88,182)
Fringe Benefits	(\$21,499)	(\$26,455)	(\$27,116)
Expense and Equipment	<u>(\$24,735)</u>	<u>(\$19,608)</u>	<u>(\$20,196)</u>
Total <u>Costs</u> - Div. of Legal Services	<u>(\$116,150)</u>	<u>(\$132,094)</u>	<u>(\$135,494)</u>

<u>Cost - Department of Health</u>			
Personal service (5 FTE)	(\$149,380)	(\$166,196)	(\$170,351)
Fringe benefits	(\$45,934)	(\$51,105)	(\$52,383)
Expense and equipment	<u>(\$32,895)</u>	<u>(\$37,183)</u>	<u>(\$38,297)</u>
Total <u>Costs</u> - Department of Health	<u>(\$228,209)</u>	<u>(\$254,484)</u>	<u>(\$261,031)</u>

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>(\$13,943,436)</u></b>	<b><u>(\$22,350,080)</u></b>	<b><u>(\$23,865,135)</u></b>
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<u>FISCAL IMPACT - State Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
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**FEDERAL FUNDS**

Income - Department of Social Services Medicaid reimbursements	\$20,787,766	\$33,472,292	\$35,794,952
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<u>Costs - Department of Social Services - Division of Aging</u>			
Personal services (11.32 FTE)	(\$180,654)	(\$421,105)	(\$431,632)
Fringe benefits	(\$55,551)	(\$129,490)	(\$132,727)
Expense and equipment	<u>(\$279,769)</u>	<u>(\$445,875)</u>	<u>(\$458,072)</u>
Total Costs - Division of Aging	<u>(\$515,974)</u>	<u>(\$996,470)</u>	<u>(\$1,022,431)</u>

<u>Costs - Department of Social Services - Division of Medical Services</u>			
Expansion of asset limits	(\$7,437,712)	(\$10,263,690)	(\$11,231,348)
Expansion of eligibility	(\$6,378,830)	(\$11,174,334)	(\$12,233,927)
Chiropractor services	(\$3,240,793)	(\$6,481,586)	(\$6,481,586)
Restructure of adult day care	(\$2,910,362)	(\$4,225,174)	(\$4,489,833)
Program costs	<u>(\$263,591)</u>	<u>(\$297,695)</u>	<u>(\$297,942)</u>
Total <u>Costs</u> - DMS	<u>(\$20,105,288)</u>	<u>(\$32,298,479)</u>	<u>(\$34,590,636)</u>

<u>FISCAL IMPACT - State Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
<u>Costs - Department of Social Services - Division of Family Services</u>			
Increased Personnel and Expense and Equipment Cost from Increasing Asset and Income Limits	(\$89,071)	(\$89,281)	(\$91,556)
<u>Costs - Department of Social Services - Division of Legal Services</u>			
Personal Service (1.8 FTE)	(\$46,611)	(\$57,354)	(\$58,788)
Fringe Benefits	(\$14,333)	(\$17,636)	(\$18,077)
Expense and Equipment	(\$16,490)	(\$13,072)	(\$13,464)
Total <u>Costs</u> - Div. of Legal Services	<u>(\$77,433)</u>	<u>(\$88,062)</u>	<u>(\$90,329)</u>
<b>ESTIMATED EFFECT ON FEDERAL FUNDS</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
<b>LOCAL GOVERNMENT FUNDS</b>			
<u>Costs - Prosecuting Attorneys</u>			
Upgrades to Computer Systems, Forms and Instruction Changes	Exceeds <u>(\$100,000)</u>	<u>\$0</u>	<u>\$0</u>
<b>ESTIMATED EFFECT ON LOCAL GOVERNMENT FUNDS</b>	<b>Exceeds <u>(\$100,000)</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

FISCAL IMPACT - Small Business

Small businesses may be required to hire more patient care staff in order to implement corrective actions relating to staffing. Home health businesses would also have costs for implementing telephone check-in systems.

DESCRIPTION

This proposal would modify the law relating to protection of the elderly. A new Chapter 187 is created and several existing sections are transferred to this chapter.

DESCRIPTION (continued)

SECTION 187.010 - Modifies definitions for elder care terms, including the definition of "abuse" to include "financial" injury.

SECTION 187.020 - Requires certain persons to report suspected abuse or neglect of facility residents. Anyone failing to make a report is guilty of a Class A misdemeanor. The Department of Social Services shall investigate reports within twenty-four hours. Reports involving imminent harm shall be investigated immediately. All reports will be referred to the appropriate law enforcement agency. All reports are confidential, except that family members will be notified, unless they are the alleged abusers. Reports must be obtained with a subpoena. The Department must notify the reporter within five days regarding the initiation of an investigation. Immunity is given to reporters, unless they act negligently, recklessly, or in bad faith. No reporter may be harassed for making a report. The Division of Aging and a telephone contact line will provide information on a person's rights if this occurs.

It is a Class D felony to abuse or neglect a resident. The Department must maintain an employee disqualification list (EDL) consisting of persons who have been finally determined to have abused or neglected a resident. Sections 187.075 and 187.032 provide similar provisions for in-home care clients and private care clients, respectively. Section 187.078 provides similar provisions for the misappropriation of an individual's property.

SECTION 187.030 - The Department must investigate reports by using the procedures established in Sections 660.250 to 660.295. The Division and law enforcement must require elder abuse training and must develop an investigation checklist.

SECTION 187.034 - Provides immunity from liability to reporters, unless they act in bad faith.

SECTION 187.081 - Any person placed on the EDL must be notified in writing with thirty days to respond or appeal. Based on substantiated reports, any person who intentionally or negligently inflicts serious physical injury or death to another will be automatically listed. No person on the EDL may be employed by anyone receiving the list.

SECTION 187.084 - No later than two days after hiring, providers must request a criminal background check and must check the EDL. Failure to disclose will result in a Class A misdemeanor. Failure to investigate will result in civil penalties. This section only applies to persons hired after the effective date of this section. Notice will be provided to facilities that are currently employing someone who has been convicted of or has pled guilty or no contest in any state to a crime under Chapters 565, 566, 569, RSMo, or sections 210.109 to 210.183, RSMo. All such employees must be added to the Family Care Safety Registry and Access Line

DESCRIPTION (continued)

(Registry). Any provider licensed under Chapter 198, RSMo, that violates this section will be subject to civil penalties under Section 198.067, RSMo. This section contains an emergency clause.

SECTION 187.087 - Provides that all reports of abuse or neglect will be kept confidential, with specific exceptions.

SECTION 187.100 - By July 1, 2001, the Division must establish a telephone check-in pilot project for in-home services employees.

SECTION 187.102 - Requires the Departments of Social Services, Mental Health, and Health to work cooperatively in the investigation of abuse and neglect, when appropriate.

SECTION 491.076 - This new section allows a statement made by an elderly or disabled person, while still under the stress of excitement caused by the incident, to be admitted into evidence if the statement is made near the time of a crime. In addition, the elderly or disabled must testify or be unavailable and the court must find a sufficient indicia of reliability.

SECTION 660.030 - This new section provides that no legal privilege, with the exception of attorney/client, will excuse a person's failure to report or cooperate with the investigation of abuse or neglect. All Department personnel shall have access to victim's records, unless otherwise prohibited by federal law.

INSPECTIONS AND COMPLIANCE SECTION 191.900 - Includes "financial" in the definition of abuse and redefines "medical assistance" as any federal health care program.

SECTION 191.910 - Allows the Attorney General (AG) to investigate and commence a state prosecution on abuse and neglect cases in 3rd class counties which employ less than full time prosecuting attorneys.

SECTIONS 197.400 - 197.477 - Revises various provisions regarding the licensure of home health care providers, including the creation of three classifications of home health care.

SECTION 197.760 - Provides for whistleblower protection to health care employees who report abuses by health care facilities and long term care facilities.

SECTION 198.012 - Includes the provisions of Section 187.020, RSMo, as non-applicable to certain entities, such as hospitals.

DESCRIPTION (continued)

SECTION 198.026 - Currently, this section outlines facility compliance procedures. The Department must impose sanctions and civil penalties and may revoke or suspend a facility's license or close a facility if it continues in noncompliance. Receivership provisions are added. This section also applies to non-Medicaid and non-Medicare facilities.

SECTION 198.030 - Requires every residential care facility I or II to meet or exceed federal requirements for posting deficiencies.

SECTION 198.032 - Includes Section 187.020 in the requirement for confidentiality of resident records.

SECTION 198.068 - Provides the General Assembly's intent that civil penalties be imposed on violators regardless of subsequent correction. The Department shall examine the most egregious violations to evaluate whether to proceed with civil penalties in Section 198.067, RSMo.

SECTION 198.526 - Currently, this section deals with facility inspection procedures. New language provides for immediate termination of any Division employee who discloses an inspection time to a facility.

SECTION 660.051 - This new section requires the Division to make all mandated long-term care deficiency reports available on the Division's website. A notation shall be made on the website if a facility's due process is still pending.

MEDICAL ASSISTANCE SECTION 208.010 - Currently, this section provides public assistance eligibility criteria. This act raises the amount of allowable assets from \$1,000 to \$2,500 for a single person and from \$2,000 to \$5,000 for a couple.

SECTION 208.151 - Currently, this section lists those who are eligible for Medicaid. New language allows eligibility to those who could receive old age assistance or permanent disability benefits under the 1973 standards and whose income is below 100 percent of poverty level.

SECTION 208.152 - This section currently lists the services for which Medicaid payments are made. This act requires nursing homes to receive reimbursement for Medicaid residents within 60 days of admission. The coverage of chiropractic services is added. The Joint Committee on Administrative Rules must review coverage of additional medications.

SECTION 660.252 - Requires all Medicaid participation agreements between the Department and in-home services providers to include an abuse and neglect training requirement.

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DESCRIPTION (continued)

FAMILY CARE REGISTRY SECTIONS 210.903 - 210.936 - Currently, this section establishes the Family Care Safety Registry and Access Line. New language requires the inclusion of the Department of Mental Health's EDL.

MISCELLANEOUS SECTION 660.055 - Currently, this section allows a shared care tax credit to registered caregivers. New language prohibits the credit for caregivers of persons receiving in-home services through Medicaid. The credit will now be refundable.

SECTION 660.071 - This new section requires the Division to develop a publication listing all organizations providing elder services. The publication should include other information, as designated.

SECTION 660.083 - Requires the Division of Aging to consider the compliance history of a facility when the Department of Social Services is issuing or renewing a license to the facility.

SECTION 660.401 - This new section requires the Division to restructure the adult day care program to provide basic care without rehabilitative services. The Division must authorize additional reimbursement to transporters and rules shall be amended to increase participation in the program.

This act contains a termination for Section 210.936, RSMo, and contains an emergency clause for Section 187.084, RSMo.

This legislation may be federally mandated, would not duplicate any other program and would require additional capital improvements or rental space.



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SOURCES OF INFORMATION

Department of Social Services  
Department of Mental Health  
Office of State Courts Administrator  
Office of Prosecution Services  
Office of State Public Defender  
Office of Attorney General  
Department of Corrections  
Department of Public Safety - Missouri Highway Patrol  
Office of Secretary of State  
Department of Health

A handwritten signature in black ink, appearing to read "Jeanne Jarrett". The signature is stylized with a large initial "J" and a cursive "Jarrett".

Jeanne Jarrett, CPA  
Director  
April 28, 2000